

AMENDED IN SENATE APRIL 24, 2013

AMENDED IN SENATE APRIL 10, 2013

**SENATE BILL**

**No. 744**

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**Introduced by Senator Lara**

February 22, 2013

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An act to amend Sections 1981, 1983, 48660.1, 48662, and 48918 of, to add Sections 1981.5 and 48662.5 to, and to repeal Section 1981.2 of, the Education Code, relating to pupils.

LEGISLATIVE COUNSEL'S DIGEST

SB 744, as amended, Lara. Pupils: involuntary transfer: county community schools and community day schools.

(1) Existing law authorizes a county board of education to establish and maintain one or more community schools into which the county board of education may enroll specified pupils, including, but not limited to, pupils who are expelled for specified reasons, referred as the result of the recommendation by a school attendance review board, probation referred, or homeless children.

This bill would revise the list of pupils who may be involuntarily enrolled in a county community school to limit the kind of probation referrals and remove ~~pupils who are referred as the result of the recommendation by a school attendance review board~~ and homeless children. *The bill would require the consent of the pupil's parent or guardian for the enrollment of a pupil who is referred as the result of a recommendation by a school attendance review board.* The bill would allow enrollment of certain other pupils in a county community school with the consent of the pupil's parent or guardian. The bill would authorize, *with respect to* certain probation referrals to a county

community school ~~to be challenged in~~, *a parent, guardian, or responsible adult to request a hearing from the juvenile court.*

(2) Existing law requires a county community school to prescribe an individually planned educational program based on an educational assessment for each pupil. Existing law requires the course of study of a county community school to be adopted by the county board of education to enable each pupil to continue academic work leading to the completion of a regular high school program.

This bill would require an individually planned educational program to include, ~~but not be limited to~~, *specified services to be provided either at the school or through community organizations.*

(3) Existing law authorizes the governing board of a school district to establish one or more community day schools for pupils in any of kindergarten and grades 1 to 12, inclusive. Existing law authorizes the governing board of a school district to assign a pupil to a community day school only if the pupil meets specified conditions, including, but not limited to, *being expelled*, being referred by a school attendance review board or other district-level referral ~~process~~ *process*, and being probation referred pursuant to specified law.

This bill would revise the list of pupils who may be involuntarily ~~enrolled in~~ *transferred to* a community day school to limit the kind of probation referrals ~~and remove a referral by a school attendance review board or other district-level referral process.~~ *The bill would impose certain conditions on the involuntary transfer of a pupil referred by the school attendance review board.* The bill would allow enrollment of certain other pupils in a community day school with the consent of the pupil's parent or guardian. The bill would authorize, *with respect to* certain probation referrals to a community day school ~~to be challenged in~~, *a parent, guardian, or responsible adult to request a hearing from the juvenile court.*

(4) Existing law states the intent of the Legislature that community day schools include specified program components, including, but not limited to, individualized instruction and assessment.

This bill would require individualized instruction and assessment to include specified services, *and would require notification of the probation officer in that regard relative to a pupil ordered placed in a community day school by court order.*

(5) This bill would provide a pupil who is involuntarily enrolled in a county community school or a community day school the right to reenroll in his or her former school or another ~~comprehensive~~

*appropriate* school immediately after ~~completion of the expulsion period~~ *readmission from expulsion* or court-ordered placement, and would require the pupil to be informed of that date, thereby imposing a state-mandated local program. The bill would prohibit the pupil from being denied this reenrollment based on his or her failure to comply with any additional criteria imposed by a county board of education or school district beyond the terms of the initial or subsequent expulsion order. The bill would prohibit the county board of education and the school district from adding additional academic or behavioral criteria or conditions that would extend the duration of the placement of a pupil in a county community school or a community day school beyond the terms of the initial or subsequent expulsion order.

(6) Existing law requires the governing board of each school district to establish rules and regulations governing procedures for the expulsion of pupils. Existing law requires expulsion proceedings to be terminated and the pupil to be immediately reinstated and permitted to return to a classroom instructional program, any other instructional program, a rehabilitation program, or any combination of these programs if a hearing officer or administrative panel decides not to recommend expulsion.

This bill would require that the pupil be permitted to return only to the classroom instructional program from which the expulsion referral was made. The bill would allow a parent ~~or~~, guardian, *or responsible adult* to request another school ~~option~~ *placement* in writing.

(7) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 1981 of the Education Code is amended
- 2 to read:
- 3 1981. The county board of education may enroll in a *county*
- 4 community school pupils who are any of the following:

1 (a) Expelled from a school district for any reason *other than*  
2 *those specified in subdivision (a) or (c) of Section 48915.*

3 (b) Recommended to attend by a school attendance review board  
4 with the written consent of the parent or guardian. No pupil shall  
5 be required to attend a county community school based on the  
6 recommendation of the school attendance review board. That  
7 attendance is voluntary and ~~parental consent may be revoked at~~  
8 ~~any time rescinded.~~

9 ~~(c) Pupils whose school districts of attendance have, at the~~  
10 ~~request of the pupil's parent or guardian, approved the pupil's~~  
11 ~~enrollment in a county community school, subject to the following:~~

12 ~~(1) A pupil shall not be enrolled in a county community school~~  
13 ~~pursuant to this subdivision unless the school district has made a~~  
14 ~~finding that such a placement will promote the educational interests~~  
15 ~~of the pupil and provided written notice of the finding to the pupil's~~  
16 ~~parent or guardian, including notice that consent to that placement~~  
17 ~~is voluntary and may be revoked at any time.~~

18 ~~(2) A parent or guardian of a pupil enrolled in a county~~  
19 ~~community school pursuant to this subdivision may revoke that~~  
20 ~~request and consent to the placement at any time, and,~~  
21 ~~notwithstanding subdivision (a) of Section 1981.5, the pupil shall~~  
22 ~~be immediately reenrolled in the school that the pupil attended at~~  
23 ~~the time of the referral, or in another comprehensive school.~~

24 ~~(d)~~

25 (c) (1) On probation, with or without the supervision of a  
26 probation officer and consistent with an order of a juvenile court,  
27 who are considered to be wards of the court under Sections 601  
28 and 602 of the Welfare and Institutions Code and ordered placed  
29 pursuant to Sections 725, 729.2, and 791 of, and paragraph (2) of  
30 subdivision (a) of Section 727 of, the Welfare and Institutions  
31 Code.

32 (2) Under the supervision of a probation officer, with the consent  
33 of the minor and the minor's parent or guardian, pursuant to Section  
34 654 of the Welfare and Institutions Code.

35 (3) Under the supervision of a probation officer pursuant to  
36 Section 726 and paragraph (3) of subdivision (a) of Section 727  
37 of the Welfare and Institutions Code with the consent of the pupil's  
38 parent, guardian, or responsible adult appointed by the juvenile  
39 court to make educational decisions for the pupil. The enrollment  
40 of a minor covered by this paragraph in a county community school

1 shall be consistent with paragraph (2) of subdivision (c) of Section  
2 726 of the Welfare and Institutions Code, which provides that all  
3 educational and school placement decisions shall seek to ensure  
4 that the youth is in the least restrictive educational program, has  
5 access to the academic resources, services, and extracurricular and  
6 enrichment activities that are available to all pupils, and are based  
7 on the best interests of the minor.

8 ~~(4) Unless specifically ordered by a juvenile court, nothing in~~  
9 ~~this subdivision shall be construed to conflict with the existing~~  
10 ~~rights of a parent or guardian or responsible adult appointed by~~  
11 ~~the juvenile court pursuant to Section 726 of the Welfare and~~  
12 ~~Institutions Code to make educational placement decisions for the~~  
13 ~~minor.~~

14 ~~(5) Enrollment in a county community school pursuant to this~~  
15 ~~subdivision shall be consistent with Section 48645.5.~~

16 ~~(6) A parent, guardian, or responsible adult may challenge in~~  
17 ~~juvenile court any placement pursuant to paragraphs (1) to (3),~~  
18 ~~inclusive, that conflicts with the parent's, guardian's, or responsible~~  
19 ~~adult's right to make a decision to enroll or not to enroll the pupil~~  
20 ~~in a community school.~~

21 *(4) On probation or parole and not in attendance at any school,*  
22 *where enrollment is with the consent of the parent, guardian, or*  
23 *responsible adult, or the pupil, if he or she is 18 years of age or*  
24 *older. Nothing in paragraph (1) shall impact the provision of*  
25 *services or funding for youth up to 25 years of age pursuant to*  
26 *subdivision (b) of Section 1982.*

27 *(5) Expelled for any of the reasons specified in subdivision (a)*  
28 *or (c) of Section 48915.*

29 *(6) Unless specifically ordered by a juvenile court, nothing in*  
30 *this subdivision shall be construed to conflict with the existing*  
31 *rights of a parent, guardian, or responsible adult appointed by*  
32 *the juvenile court pursuant to Section 726 of the Welfare and*  
33 *Institutions Code to make educational placement decisions for the*  
34 *minor.*

35 *(7) A parent, guardian, or responsible adult of a pupil who is*  
36 *under the jurisdiction of the juvenile court may, consistent with*  
37 *paragraph (2) of subdivision (c) of Section 726 of the Welfare and*  
38 *Institutions Code and California Rule of Court 5.651, request a*  
39 *hearing with the juvenile court regarding any placement in a*  
40 *county community school that removes the pupil from the school*

1 of origin and notify the juvenile court regarding any placement  
2 that conflicts with this section, with respect to the parent's,  
3 guardian's, or responsible adult's right to make a decision to  
4 enroll or not enroll the pupil in a county community school.

5 (8) Enrollment in a county community school pursuant to this  
6 subdivision shall be consistent with Section 48645.5.

7 (d) Pupils whose school districts of attendance have, at the  
8 request of the pupil's parent, guardian, or responsible adult,  
9 approved the pupil's enrollment in a county community school,  
10 subject to the following:

11 (1) A pupil shall not be enrolled in a county community school  
12 pursuant to this subdivision unless the school district has made a  
13 finding that the placement will promote the educational interests  
14 of the pupil.

15 (2) A parent, guardian, or responsible adult of a pupil enrolled  
16 in a county community school pursuant to this subdivision may  
17 rescind the request to the placement, and the pupil shall be  
18 immediately reenrolled in the school that the pupil attended at the  
19 time of the referral, or, with the consent of the parent, guardian,  
20 or responsible adult, another appropriate school. The procedures  
21 outlined in subdivisions (b) to (e), inclusive, of Section 51225.2  
22 govern the transfer of credits, records, including special education  
23 records, and grades required pursuant to subdivision (a) of Section  
24 48645.5 and Section 49068 when the pupil transfers to and from  
25 the county community school.

26 SEC. 2. Section 1981.2 of the Education Code is repealed.

27 SEC. 3. Section 1981.5 is added to the Education Code, to  
28 read:

29 1981.5. (a) A pupil who is involuntarily enrolled in a county  
30 community school pursuant to subdivision (a) of, or paragraph (1)  
31 or (5) of subdivision ~~(d)~~ (c) of, Section 1981 shall have the right  
32 to reenroll in his or her former school or another ~~comprehensive~~  
33 ~~appropriate~~ school immediately after ~~completion of readmission~~  
34 ~~from the expulsion period~~ order pursuant to Section 48916 or  
35 court-ordered placement. Upon enrollment in the county  
36 community school, the pupil shall be informed of the date when  
37 he or she may reenroll in his or her former school or another  
38 ~~comprehensive appropriate~~ school and the school district shall  
39 ~~implement a process to transfer the pupil from the county~~  
40 ~~community school, which may include, but is not limited to,~~

1 ~~ensuring proper transfer of credits, records, and grades. The~~  
2 ~~procedures outlined in subdivisions (b) to (e), inclusive, of Section~~  
3 ~~51225.2 govern the transfer of credits, records, including special~~  
4 ~~education records, and grades required pursuant to subdivision~~  
5 ~~(a) of Section 48645.5 and Section 49068 when the pupil transfers~~  
6 ~~to and from the county community school.~~

7 (b) A pupil shall not be denied reenrollment in his or her former  
8 school or another comprehensive school based on the pupil's failure  
9 to comply with any additional criteria imposed by a county board  
10 of education beyond the terms of the initial order or any subsequent  
11 order to expel issued pursuant to Section 48916.

12 (c) The county board of education shall not add additional  
13 academic or behavioral criteria or conditions that would extend  
14 the duration of the placement of a pupil in a county community  
15 school beyond the terms of the initial order or any subsequent  
16 order to expel issued pursuant to Section 48916.

17 SEC. 4. Section 1983 of the Education Code is amended to  
18 read:

19 1983. (a) Pupils enrolled in county community schools shall  
20 be assigned to classes or programs deemed most appropriate for  
21 reinforcing or reestablishing educational development.

22 (b) These classes or programs may include, but need not be  
23 limited to, basic educational skill development, on-the-job training,  
24 school credit recovery assistance, tutorial assistance, and individual  
25 guidance activities.

26 (c) To the extent that independent study is determined to satisfy  
27 the individually planned education program described in  
28 subdivision (d) for a pupil attending a county community school,  
29 it shall meet all the requirements of Section 51745 and following,  
30 including the requirement that ~~the entry into that program~~ *be is*  
31 voluntary.

32 (d) An individually planned educational program based upon  
33 an educational assessment shall be prescribed for each pupil. If  
34 the educational assessment or rehabilitation plan shows that the  
35 pupil needs any of the following, ~~the pupils~~ *pupil* shall be enrolled  
36 in or have access to these programs *either at the school or through*  
37 *community organizations*: counseling, mental health counseling,  
38 or other support services, college preparatory and A-G classes,  
39 access to services necessary to transition a pupil back to his or her  
40 prior school or to another comprehensive school, ~~peer~~ mediation

1 ~~or peace-building~~, *conflict resolution, alternative behavior*  
 2 *interventions as described in subdivision (b) of Section 48900.5,*  
 3 supplemental services to assist with passage of the high school  
 4 exit examination, or extracurricular or other enrichment activities.  
 5 *For pupils who are under an expulsion order, nothing in this*  
 6 *section is intended to require participation in the school district’s*  
 7 *extracurricular or other similar programs.*

8 (e) The course of study of a county community school shall be  
 9 adopted by the county board of education and shall enable each  
 10 pupil to continue academic work leading to the completion of a  
 11 regular high school program.

12 (f) ~~A county board~~ *County boards* of education operating a  
 13 county community ~~school~~ *schools* shall ensure that assessments  
 14 in all areas of suspected disability and appropriate services and  
 15 programs specified in a pupil’s individualized education program  
 16 are provided in compliance with all applicable state and federal  
 17 laws and regulatory provisions.

18 (g) ~~A county board~~ *County boards* of education operating a  
 19 county community ~~school~~ *schools* shall ensure that appropriate  
 20 services and programs designed to address the language needs of  
 21 pupils identified as English learners are provided in compliance  
 22 with all applicable state and federal laws and regulatory provisions.

23 SEC. 5. Section 48660.1 of the Education Code is amended to  
 24 read:

25 48660.1. (a) It is the intent of the Legislature that school  
 26 districts operating community day schools, to the extent possible,  
 27 include the following program components:

28 (1) School district cooperation with the county office of  
 29 education, law enforcement, probation, and human services  
 30 agencies personnel who work with at-risk youth.

31 (2) Low pupil-teacher ratio.

32 (3) Individualized instruction and assessment.

33 (4) Maximum collaboration with school district support service  
 34 resources, including, but not limited to, school counselors and  
 35 psychologists, academic counselors, and pupil discipline personnel.

36 (5) A course of study that enables each pupil to continue  
 37 academic work leading to the completion of a regular high school  
 38 program.

39 (b) If ~~the educational~~ *an individualized* assessment ~~or~~  
 40 ~~rehabilitation plan~~ shows that the pupil needs any of the following

1 *requires additional educational services, supports, such as mental*  
2 *health counseling, or classes, such as college preparatory classes,*  
3 *that are not available at the community day school, the parent,*  
4 *guardian, or responsible adult of the pupil shall be enrolled in or*  
5 *have access to these programs: counseling, mental health*  
6 *counseling, or other support services, college preparatory and A-G*  
7 *classes, access to services necessary to transition a pupil back to*  
8 *his or her prior school or to another comprehensive school, peer*  
9 *mediation or peacebuilding, supplemental services to assist with*  
10 *passage of the high school exit examination, or extracurricular or*  
11 *other enrichment activities notified. If the pupil has been placed*  
12 *pursuant to a court order as described in paragraph (2) of*  
13 *subdivision (a) of Section 48662, the probation officer shall also*  
14 *be notified.*

15 *(c) For an expelled pupil, if the plan of rehabilitation required*  
16 *pursuant to subdivisions (b) and (c) of Section 48916 requires*  
17 *access to a particular service or program for the pupil to meet its*  
18 *conditions, that service or program shall be made available to the*  
19 *pupil free of cost or the rehabilitation plan shall be amended to*  
20 *remove the condition and reflect that the service or program is*  
21 *not available to the pupil.*

22 ~~*(e) A school district operating a*~~

23 *(d) School districts operating community day-school schools*  
24 *shall ensure that assessments in all areas of suspected disability*  
25 *and appropriate services and programs specified in a pupil's*  
26 *individualized education program are provided in compliance with*  
27 *all applicable state and federal laws and regulatory provisions.*

28 ~~*(d) A school district operating a*~~

29 *(e) School districts operating community day-school schools*  
30 *shall ensure that appropriate services and programs designed to*  
31 *address the language needs of pupils identified as English learners*  
32 *are provided in compliance with all applicable state and federal*  
33 *laws and regulatory provisions.*

34 SEC. 6. Section 48662 of the Education Code is amended to  
35 read:

36 48662. (a) A pupil may be involuntarily transferred to a  
37 community day school by a school district only if he or she meets  
38 one or more of the following conditions:

39 (1) The pupil is expelled for any reason.

1 (2) The pupil is on probation with or without the supervision  
2 of a probation officer and consistent with an order of a juvenile  
3 court, and is considered to be a ward of the court under Sections  
4 601 and 602 of the Welfare and Institutions Code and is ordered  
5 placed pursuant to Sections 725, 729.2, and 791 of, and paragraph  
6 (2) of subdivision (a) of Section 727 of, the Welfare and Institutions  
7 Code.

8 (3) *The pupil is referred by the school attendance review board*  
9 *with the approval of and a finding by the school district that the*  
10 *proposed placement will meet the educational needs of the pupil,*  
11 *including any needs related to the referral to the school attendance*  
12 *review board in the first instance, and that the proposed placement*  
13 *is accessible by the pupil without incurring any transportation*  
14 *costs above and beyond the costs to attend his or her school of*  
15 *residence. The term for an involuntary transfer under this*  
16 *paragraph shall be no longer than the end of the semester following*  
17 *the semester during which the acts leading to the referral occurred,*  
18 *regardless of whether the pupil is successful at the placement, at*  
19 *which time the parent, guardian, or responsible adult may choose*  
20 *whether to continue the pupil's enrollment at the community day*  
21 *school or to return the pupil to the prior school or another*  
22 *appropriate school. If the parent, guardian, or responsible adult*  
23 *has concerns at any time about the appropriateness of the proposed*  
24 *placement, he or she may raise those concerns with the school*  
25 *attendance review board and the school district, and those*  
26 *concerns shall be taken into consideration with regard to whether*  
27 *the placement shall continue.*

28 (b) A pupil may be voluntarily transferred to a community day  
29 school only if he or she meets one of the following conditions:

30 ~~(1) Recommended to attend by a school attendance review board~~  
31 ~~with the written consent of the parent or guardian. No pupil shall~~  
32 ~~be required to attend a community school based on the~~  
33 ~~recommendation of the school attendance review board. That~~  
34 ~~attendance is voluntary and parental consent may be revoked at~~  
35 ~~any time.~~

36 ~~(2)~~

37 (1) Under the supervision of a probation officer, with the consent  
38 of the minor and the minor's parent or guardian, pursuant to Section  
39 654 of the Welfare and Institutions Code.

40 ~~(3)~~

1 (2) Under the supervision of a probation officer pursuant to  
2 Section 726 of, and paragraph (3) of subdivision (a) of Section  
3 727 of, the Welfare and Institutions Code with the consent of the  
4 pupil's parent, guardian, or responsible adult appointed by the  
5 juvenile court to make educational decisions for the pupil. The  
6 enrollment of a minor covered by this paragraph in a community  
7 day school shall be consistent with paragraph (2) of subdivision  
8 (c) of Section 726 of the Welfare and Institutions Code *and*  
9 *subdivision (h) of Section 48853*, which ~~provides~~ *provide* that all  
10 educational and school placement decisions shall seek to ensure  
11 that the ~~youth~~ *minor* is in the least restrictive educational program,  
12 has access to the academic resources, services, and extracurricular  
13 and enrichment activities that are available to all pupils, and that  
14 the decisions are based on the best interests of the minor.

15 (4)

16 (3) The parent or guardian of the pupil has approved or requested  
17 the pupil's placement in a community day school. *A pupil who is*  
18 *recommended to attend a community day school by a school district*  
19 *shall not be enrolled in a community day school pursuant to this*  
20 *paragraph unless the school district has made a finding that the*  
21 *placement will promote the educational interests of the pupil. The*  
22 *parent, guardian, or responsible adult of a pupil enrolled in a*  
23 *community day school pursuant to this paragraph may rescind the*  
24 *request to the placement, and the pupil shall be immediately*  
25 *reenrolled in the school the pupil attended at the time of the*  
26 *referral, or, with the consent of the parent, guardian, or responsible*  
27 *adult, in another appropriate school.*

28 ~~(A) A pupil shall not be enrolled in a community day school~~  
29 ~~pursuant to this subdivision unless the school district has made a~~  
30 ~~finding that the placement will promote the educational interests~~  
31 ~~of the pupil and provided written notice of those findings to the~~  
32 ~~pupil's parent or guardian, including notice that consent to such a~~  
33 ~~placement is voluntary and may be revoked at any time.~~

34 ~~(B) A parent or guardian of a pupil enrolled in a community~~  
35 ~~day school pursuant to this subdivision may revoke that request~~  
36 ~~and consent to the placement at any time, and, notwithstanding~~  
37 ~~subdivision (a) of Section 48662.5, the pupil shall be immediately~~  
38 ~~reenrolled in the school the pupil attended at the time of the~~  
39 ~~referral, or in another comprehensive school.~~

1 (c) First priority for assignment to a community day school shall  
 2 be given to a pupil expelled pursuant to subdivision (d) of Section  
 3 48915, second priority shall be given to pupils expelled for any  
 4 other reasons, and third priority shall be given for placement to all  
 5 other pupils pursuant to this section, unless there is an agreement  
 6 that the county superintendent of schools shall serve any of these  
 7 pupils.

8 (d) Unless specifically ordered by a juvenile court, nothing in  
 9 this section shall be construed to conflict with the existing rights  
 10 of a parent or guardian or responsible adult appointed by the  
 11 juvenile court pursuant to Section 726 of the Welfare and  
 12 Institutions Code to make educational placement decisions for the  
 13 minor.

14 (e) Enrollment in a community day school pursuant to this  
 15 section shall be consistent with Section 48645.5.

16 (f) ~~A~~ *With respect to a placement under paragraph (1) or (2)*  
 17 *of subdivision (b), a parent, guardian, or responsible adult may*  
 18 ~~challenge in~~ *of a pupil who is under the jurisdiction of the juvenile*  
 19 *court may, consistent with paragraph (2) of subdivision (c) of*  
 20 *Section 726 of the Welfare and Institutions Code and California*  
 21 *Rule of Court 5.651, request a hearing with the juvenile court*  
 22 *regarding any placement pursuant to paragraph (2) of subdivision*  
 23 ~~(a) or paragraph (2) or (3) of subdivision (b) that conflicts in a~~  
 24 *community day school that removes the pupil from the school of*  
 25 *origin and notify the juvenile court regarding any placement that*  
 26 *conflicts with paragraph (1) or (2) of subdivision (b) with respect*  
 27 *to the parent's, guardian's, or responsible adult's right to make a*  
 28 *decision to enroll or not to enroll the pupil in a community day*  
 29 *school.*

30 SEC. 7. Section 48662.5 is added to the Education Code, to  
 31 read:

32 48662.5. (a) A pupil who is involuntarily enrolled in a  
 33 community day school shall have the right to reenroll in his or her  
 34 former school or another comprehensive school immediately after  
 35 ~~completion of the readmission from the expulsion period or the~~  
 36 *court-ordered placement pursuant to Section 48916.* Upon that  
 37 involuntary enrollment in the community day school, the pupil  
 38 shall be informed of the date when he or she may reenroll in his  
 39 or her former school or another comprehensive school ~~and the~~  
 40 ~~school district shall implement a process to transfer the pupil from~~

1 ~~the community day school, which may include, but is not limited~~  
2 ~~to, ensuring proper. The procedures outlined in subdivisions (b)~~  
3 ~~to (e), inclusive, of Section 51225.2 govern the~~ transfer of credits,  
4 records, including special education records, and grades required  
5 pursuant to subdivision (a) of Section 48645.5 and Section 49068.

6 (b) A pupil shall not be denied reenrollment in his or her former  
7 school or another comprehensive school based on the pupil's failure  
8 to comply with any additional criteria imposed by a school district  
9 beyond the terms of an initial or subsequent order to expel issued  
10 pursuant to Section 48916.

11 (c) The school district shall not add additional academic or  
12 behavioral criteria or conditions that would extend the duration of  
13 the placement of a pupil in a community day school beyond the  
14 terms of an initial or subsequent order to expel issued pursuant to  
15 Section 48916.

16 (d) Any school created for the purpose of enrolling pupils that  
17 may be assigned to a community day school pursuant to Section  
18 48662 shall follow the same procedures for the involuntary transfer  
19 of pupils to a community day school set forth in this article.

20 SEC. 8. Section 48918 of the Education Code is amended to  
21 read:

22 48918. The governing board of each school district shall  
23 establish rules and regulations governing procedures for the  
24 expulsion of pupils. These procedures shall include, but are not  
25 necessarily limited to, all of the following:

26 (a) (1) The pupil shall be entitled to a hearing to determine  
27 whether the pupil should be expelled. An expulsion hearing shall  
28 be held within 30 schooldays after the date the principal or the  
29 superintendent of schools determines that the pupil has committed  
30 any of the acts enumerated in Section 48900, unless the pupil  
31 requests, in writing, that the hearing be postponed. The adopted  
32 rules and regulations shall specify that the pupil is entitled to at  
33 least one postponement of an expulsion hearing, for a period of  
34 not more than 30 calendar days. Any additional postponement may  
35 be granted at the discretion of the governing board.

36 (2) Within 10 schooldays after the conclusion of the hearing,  
37 the governing board shall decide whether to expel the pupil, unless  
38 the pupil requests in writing that the decision be postponed. If the  
39 hearing is held by a hearing officer or an administrative panel, or  
40 if the governing board does not meet on a weekly basis, the

1 governing board shall decide whether to expel the pupil within 40  
2 schooldays after the date of the pupil's removal from his or her  
3 school of attendance for the incident for which the recommendation  
4 for expulsion is made by the principal or the superintendent, unless  
5 the pupil requests in writing that the decision be postponed.

6 (3) If compliance by the governing board with the time  
7 requirements for the conducting of an expulsion hearing under this  
8 subdivision is impracticable during the regular school year, the  
9 superintendent of schools or the superintendent's designee may,  
10 for good cause, extend the time period for the holding of the  
11 expulsion hearing for an additional five schooldays. If compliance  
12 by the governing board with the time requirements for the  
13 conducting of an expulsion hearing under this subdivision is  
14 impractical due to a summer recess of governing board meetings  
15 of more than two weeks, the days during the recess period shall  
16 not be counted as schooldays in meeting the time requirements.  
17 The days not counted as schooldays in meeting the time  
18 requirements for an expulsion hearing because of a summer recess  
19 of governing board meetings shall not exceed 20 schooldays, as  
20 defined in subdivision (c) of Section 48925, and unless the pupil  
21 requests in writing that the expulsion hearing be postponed, the  
22 hearing shall be held not later than 20 calendar days before the  
23 first day of school for the school year. Reasons for the extension  
24 of the time for the hearing shall be included as a part of the record  
25 at the time the expulsion hearing is conducted. Upon the  
26 commencement of the hearing, all matters shall be pursued and  
27 conducted with reasonable diligence and shall be concluded without  
28 any unnecessary delay.

29 (b) Written notice of the hearing shall be forwarded to the pupil  
30 at least 10 calendar days before the date of the hearing. The notice  
31 shall include all of the following:

32 (1) The date and place of the hearing.

33 (2) A statement of the specific facts and charges upon which  
34 the proposed expulsion is based.

35 (3) A copy of the disciplinary rules of the school district that  
36 relate to the alleged violation.

37 (4) A notice of the parent, guardian, or pupil's obligation  
38 pursuant to subdivision (b) of Section 48915.1.

39 (5) Notice of the opportunity for the pupil or the pupil's parent  
40 or guardian to appear in person or to be represented by legal

1 counsel or by a nonattorney adviser, to inspect and obtain copies  
2 of all documents to be used at the hearing, to confront and question  
3 all witnesses who testify at the hearing, to question all other  
4 evidence presented, and to present oral and documentary evidence  
5 on the pupil's behalf, including witnesses. In a hearing in which  
6 a pupil is alleged to have committed or attempted to commit a  
7 sexual assault as specified in subdivision (n) of Section 48900 or  
8 committing a sexual battery as defined in subdivision (n) of Section  
9 48900, a complaining witness shall be given five days' notice  
10 before being called to testify, and shall be entitled to have up to  
11 two adult support persons, including, but not limited to, a parent,  
12 guardian, or legal counsel, present during their testimony. Before  
13 a complaining witness testifies, support persons shall be  
14 admonished that the hearing is confidential. This subdivision shall  
15 not preclude the person presiding over an expulsion hearing from  
16 removing a support person whom the presiding person finds is  
17 disrupting the hearing. If one or both of the support persons is also  
18 a witness, the provisions of Section 868.5 of the Penal Code shall  
19 be followed for the hearing. This section does not require a pupil  
20 or the pupil's parent or guardian to be represented by legal counsel  
21 or by a nonattorney adviser at the hearing.

22 (A) For purposes of this section, "legal counsel" means an  
23 attorney or lawyer who is admitted to the practice of law in  
24 California and is an active member of the State Bar of California.

25 (B) For purposes of this section, "nonattorney advisor" means  
26 an individual who is not an attorney or lawyer, but who is familiar  
27 with the facts of the case, and has been selected by the pupil or  
28 pupil's parent or guardian to provide assistance at the hearing.

29 (c) (1) Notwithstanding Section 35145, the governing board  
30 shall conduct a hearing to consider the expulsion of a pupil in a  
31 session closed to the public, unless the pupil requests, in writing,  
32 at least five days before the date of the hearing, that the hearing  
33 be conducted at a public meeting. Regardless of whether the  
34 expulsion hearing is conducted in a closed or public session, the  
35 governing board may meet in closed session for the purpose of  
36 deliberating and determining whether the pupil should be expelled.

37 (2) If the governing board or the hearing officer or administrative  
38 panel appointed under subdivision (d) to conduct the hearing admits  
39 any other person to a closed deliberation session, the parent or

1 guardian of the pupil, the pupil, and the counsel of the pupil also  
2 shall be allowed to attend the closed deliberations.

3 (3) If the hearing is to be conducted at a public meeting, and  
4 there is a charge of committing or attempting to commit a sexual  
5 assault as defined in subdivision (n) of Section 48900 or  
6 committing a sexual battery as defined in subdivision (n) of Section  
7 48900, a complaining witness shall have the right to have his or  
8 her testimony heard in a session closed to the public when  
9 testifying at a public meeting would threaten serious psychological  
10 harm to the complaining witness and there are no alternative  
11 procedures to avoid the threatened harm, including, but not limited  
12 to, videotaped deposition or contemporaneous examination in  
13 another place communicated to the hearing room by means of  
14 closed-circuit television.

15 (d) Instead of conducting an expulsion hearing itself, the  
16 governing board may contract with the county hearing officer, or  
17 with the Office of Administrative Hearings pursuant to Chapter  
18 14 (commencing with Section 27720) of Part 3 of Division 2 of  
19 Title 3 of the Government Code and Section 35207, for a hearing  
20 officer to conduct the hearing. The governing board may also  
21 appoint an impartial administrative panel of three or more  
22 certificated persons, none of whom is a member of the board or  
23 employed on the staff of the school in which the pupil is enrolled.  
24 The hearing shall be conducted in accordance with all of the  
25 procedures established under this section.

26 (e) Within three schooldays after the hearing, the hearing officer  
27 or administrative panel shall determine whether to recommend the  
28 expulsion of the pupil to the governing board. If the hearing officer  
29 or administrative panel decides not to recommend expulsion, the  
30 expulsion proceedings shall be terminated and the pupil  
31 immediately shall be reinstated and permitted to return to the  
32 classroom instructional program from which the expulsion referral  
33 was made, unless the parent ~~or~~, guardian, *or responsible adult* of  
34 the pupil requests another school ~~option~~ *placement* in writing.  
35 *Before the placement decision being made by the parent, guardian,*  
36 *or responsible adult, the superintendent of schools or the*  
37 *superintendent's designee may, after consultation with school*  
38 *district personnel, including the pupil's teacher, and the parent,*  
39 *guardian, or responsible adult, recommend one or more school*  
40 *placement options for the pupil in addition to the option to return*

1 *to his or her classroom instructional program from which the*  
2 *expulsion referral was made.* The decision not to recommend  
3 expulsion shall be final.

4 (f) (1) If the hearing officer or administrative panel recommends  
5 expulsion, findings of fact in support of the recommendation shall  
6 be prepared and submitted to the governing board. All findings of  
7 fact and recommendations shall be based solely on the evidence  
8 adduced at the hearing. If the governing board accepts the  
9 recommendation calling for expulsion, acceptance shall be based  
10 either upon a review of the findings of fact and recommendations  
11 submitted by the hearing officer or panel or upon the results of  
12 any supplementary hearing conducted pursuant to this section that  
13 the governing board may order.

14 (2) The decision of the governing board to expel a pupil shall  
15 be based upon substantial evidence relevant to the charges adduced  
16 at the expulsion hearing or hearings. Except as provided in this  
17 section, no evidence to expel shall be based solely upon hearsay  
18 evidence. The governing board or the hearing officer or  
19 administrative panel may, upon a finding that good cause exists,  
20 determine that the disclosure of either the identity of a witness or  
21 the testimony of that witness at the hearing, or both, would subject  
22 the witness to an unreasonable risk of psychological or physical  
23 harm. Upon this determination, the testimony of the witness may  
24 be presented at the hearing in the form of sworn declarations that  
25 shall be examined only by the governing board or the hearing  
26 officer or administrative panel. Copies of these sworn declarations,  
27 edited to delete the name and identity of the witness, shall be made  
28 available to the pupil.

29 (g) A record of the hearing shall be made. The record may be  
30 maintained by any means, including electronic recording, so long  
31 as a reasonably accurate and complete written transcription of the  
32 proceedings can be made.

33 (h) (1) Technical rules of evidence shall not apply to the  
34 hearing, but relevant evidence may be admitted and given probative  
35 effect only if it is the kind of evidence upon which reasonable  
36 persons are accustomed to rely in the conduct of serious affairs.  
37 A decision of the governing board to expel shall be supported by  
38 substantial evidence showing that the pupil committed any of the  
39 acts enumerated in Section 48900.

1 (2) In hearings that include an allegation of committing or  
2 attempting to commit a sexual assault as defined in subdivision  
3 (n) of Section 48900 or committing a sexual battery as defined in  
4 subdivision (n) of Section 48900, evidence of specific instances,  
5 of a complaining witness' prior sexual conduct is to be presumed  
6 inadmissible and shall not be heard absent a determination by the  
7 person conducting the hearing that extraordinary circumstances  
8 exist requiring the evidence be heard. Before the person conducting  
9 the hearing makes the determination on whether extraordinary  
10 circumstances exist requiring that specific instances of a  
11 complaining witness' prior sexual conduct be heard, the  
12 complaining witness shall be provided notice and an opportunity  
13 to present opposition to the introduction of the evidence. In the  
14 hearing on the admissibility of the evidence, the complaining  
15 witness shall be entitled to be represented by a parent, guardian,  
16 legal counsel, or other support person. Reputation or opinion  
17 evidence regarding the sexual behavior of the complaining witness  
18 is not admissible for any purpose.

19 (i) (1) Before the hearing has commenced, the governing board  
20 may issue subpoenas at the request of either the superintendent of  
21 schools or the superintendent's designee or the pupil, for the  
22 personal appearance of percipient witnesses at the hearing. After  
23 the hearing has commenced, the governing board or the hearing  
24 officer or administrative panel may, upon request of either the  
25 county superintendent of schools or the superintendent's designee  
26 or the pupil, issue subpoenas. All subpoenas shall be issued in  
27 accordance with Sections 1985, 1985.1, and 1985.2 of the Code  
28 of Civil Procedure. Enforcement of subpoenas shall be done in  
29 accordance with Section 11455.20 of the Government Code.

30 (2) Any objection raised by the superintendent of schools or the  
31 superintendent's designee or the pupil to the issuance of subpoenas  
32 may be considered by the governing board in closed session, or in  
33 open session, if so requested by the pupil before the meeting. Any  
34 decision by the governing board in response to an objection to the  
35 issuance of subpoenas shall be final and binding.

36 (3) If the governing board, hearing officer, or administrative  
37 panel determines, in accordance with subdivision (f), that a  
38 percipient witness would be subject to an unreasonable risk of  
39 harm by testifying at the hearing, a subpoena shall not be issued  
40 to compel the personal attendance of that witness at the hearing.

1 However, that witness may be compelled to testify by means of a  
2 sworn declaration as provided for in subdivision (f).

3 (4) Service of process shall be extended to all parts of the state  
4 and shall be served in accordance with Section 1987 of the Code  
5 of Civil Procedure. All witnesses appearing pursuant to subpoena,  
6 other than the parties or officers or employees of the state or any  
7 political subdivision thereof, shall receive fees, and all witnesses  
8 appearing pursuant to subpoena, except the parties, shall receive  
9 mileage in the same amount and under the same circumstances as  
10 prescribed for witnesses in civil actions in a superior court. Fees  
11 and mileage shall be paid by the party at whose request the witness  
12 is subpoenaed.

13 (j) Whether an expulsion hearing is conducted by the governing  
14 board or before a hearing officer or administrative panel, final  
15 action to expel a pupil shall be taken only by the governing board  
16 in a public session. Written notice of any decision to expel or to  
17 suspend the enforcement of an expulsion order during a period of  
18 probation shall be sent by the superintendent of schools or his or  
19 her designee to the pupil or the pupil's parent or guardian and shall  
20 be accompanied by all of the following:

21 (1) Notice of the right to appeal the expulsion to the county  
22 board of education.

23 (2) Notice of the education alternative placement to be provided  
24 to the pupil during the time of expulsion.

25 (3) Notice of the obligation of the parent, guardian, or pupil  
26 under subdivision (b) of Section 48915.1, upon the pupil's  
27 enrollment in a new school district, to inform that district of the  
28 pupil's expulsion.

29 (k) (1) The governing board shall maintain a record of each  
30 expulsion, including the cause for the expulsion. Records of  
31 expulsions shall be a nonprivileged, disclosable public record.

32 (2) The expulsion order and the causes for the expulsion shall  
33 be recorded in the pupil's mandatory interim record and shall be  
34 forwarded to any school in which the pupil subsequently enrolls  
35 upon receipt of a request from the admitting school for the pupil's  
36 school records.

37 SEC. 9. If the Commission on State Mandates determines that  
38 this act contains costs mandated by the state, reimbursement to  
39 local agencies and school districts for those costs shall be made

- 1 pursuant to Part 7 (commencing with Section 17500) of Division
- 2 4 of Title 2 of the Government Code.

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